

JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

LISA BEVERLY

**(b) County of Residence of First Listed Plaintiff** PHILADELPHIA  
*(EXCEPT IN U.S. PLAINTIFF CASES)*

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
 Marc A. Weinberg, Esquire, Saffren & Weinberg, 815 Greenwood Avenue, Suite 22, Jenkintown, PA 19046; (215) 576-0100

**DEFENDANTS**

WILLOW TERRACE and RC OPERATOR, LLC

**County of Residence of First Listed Defendant** PHILADELPHIA  
*(IN U.S. PLAINTIFF CASES ONLY)*

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (*If Known*)**II. BASIS OF JURISDICTION** *(Place an "X" in One Box Only)*

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question<br><i>(U.S. Government Not a Party)</i> |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity<br><i>(Indicate Citizenship of Parties in Item III)</i>   |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>PERSONAL PROPERTY</b>	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ft)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 863 DIWC/DIWV (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<b>HABEAS CORPUS:</b>	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 892 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<b>OTHER:</b>		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other	<b>IMMIGRATION</b>	
		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 462 Naturalization Application	
		<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 465 Other Immigration Actions	
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

**V. ORIGIN** *(Place an "X" in One Box Only)*

- |   |   |  |   |  |  |   |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 USC 201

**VI. CAUSE OF ACTION**Brief description of cause:  
UNPAID WAGES**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION  
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/03/2018

FOR OFFICE USE ONLY

RECEIPT # AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

LISA BEVERLY

CIVIL ACTION

v.

WILLOW TERRACE, ET AL

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

05/03/2018

Date

215-576-0100

Telephone

Marc A. Weinberg, Esquire

Attorney-at-law

215-576-6288

FAX Number

Plaintiff

Attorney for

mweinberg@saffwein.com

E-Mail Address

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2130 N. Marvine Street, Philadelphia, PA 19138

Address of Defendant: 1 Penn Boulevard, Philadelphia, PA 19144

Place of Accident, Incident or Transaction: 1 Penn Boulevard, Philadelphia, PA 19144

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes  No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes  No

**CIVIL: (Place ✓ in ONE CATEGORY ONLY)**

A. *Federal Question Cases:*

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations
7.  Civil Rights
8.  Habeas Corpus
9.  Securities Act(s) Cases
10.  Social Security Review Cases
11.  All other Federal Question Cases  
(Please specify) Fair Labor Standards Act

B. *Diversity Jurisdiction Cases:*

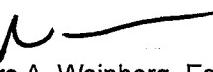
1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)  
(Please specify) \_\_\_\_\_
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases

**ARBITRATION CERTIFICATION**

(Check Appropriate Category)

I, Marc A. Weinberg, Esquire, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought. 

DATE: 05/03/2018

Marc A. Weinberg, Esquire

Attorney-at-Law

60643

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.



DATE: 05/03/2018

Marc A. Weinberg, Esquire

Attorney-at-Law

60643

Attorney I.D.#

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

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Address of Defendant: 1 Penn Boulevard, Philadelphia, PA 19144

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(Use Reverse Side For Additional Space)

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(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

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Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes  No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes  No

**CIVIL: (Place  in ONE CATEGORY ONLY)**

A. *Federal Question Cases:*

1.  Indemnity Contract, Marine Contract, and All Other Contracts

B. *Diversity Jurisdiction Cases:*

1.  Insurance Contract and Other Contracts

2.  FELA

2.  Airplane Personal Injury

3.  Jones Act-Personal Injury

3.  Assault, Defamation

4.  Antitrust

4.  Marine Personal Injury

5.  Patent

5.  Motor Vehicle Personal Injury

6.  Labor-Management Relations

6.  Other Personal Injury (Please specify) \_\_\_\_\_

7.  Civil Rights

7.  Products Liability

8.  Habeas Corpus

8.  Products Liability — Asbestos

9.  Securities Act(s) Cases

9.  All other Diversity Cases

10.  Social Security Review Cases

(Please specify) \_\_\_\_\_

11.  All other Federal Question Cases

(Please specify) Fair Labor Standards Act

**ARBITRATION CERTIFICATION**

(Check Appropriate Category)

I, Marc A. Weinberg, Esquire, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 05/03/2018

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Attorney-at-Law

60643

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NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/03/2018

Marc A. Weinberg, Esquire

Attorney-at-Law

60643

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

---

LISA BEVERLY	:	
2130 N. Marvine Street	:	<b>Complaint</b>
Philadelphia, PA 19138	:	<b>Civil Action</b>
v.	:	<b>Jury of Eight (8) Demanded</b>
WILLOW TERRACE	:	
1 Penn Boulevard	:	
Philadelphia, PA 19144	:	
and	:	<b>NO.</b>
RC OPERATOR, LLC	:	
1 Penn Boulevard	:	
Philadelphia, PA 19144	:	

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**INTRODUCTION**

This is a claim brought by Plaintiff, LISA BEVERLY ("Plaintiff or Beverly") against Defendants, WILLOW TERRACE and RC OPERATOR, LLC ("Defendants or Willow Terrace or RC OPERATOR"), for violations of the Fair Labor Standards Act of 1938 ("FLSA"), as amended, 29 U.S.C. § 201 *et seq.*, Pennsylvania Wage Payment and Collection Law, Act of 1961, P.L. 637, No. 329, Pennsylvania common law under Shick v. Shirey, 716 A.2d 1231 (Pa. 1998), and a retaliation claim under the FLSA and in support thereof states and avers as follows:

**PARTIES**

1. Plaintiff, LISA BEVERLY (hereinafter "Plaintiff" or "Beverly") is an adult individual who resides at 2130 N. Marvine Street, Philadelphia, PA and was at all times relevant hereto employed by Defendant, WILLOW TERRACE (hereinafter "Defendant or WILLOW TERRACE").

2. Defendant, WILLOW TERRACE, is a corporation, entity or business organization operating at 1 Penn Boulevard, Philadelphia, PA 19144, and at all times relevant

hereto did business in the Commonwealth of Pennsylvania.

3. Defendant, RC OPERATOR, LLC, is a corporation, entity or business organization operating at 1 Penn Boulevard, Philadelphia, PA 19144, and at all times relevant hereto did business in the Commonwealth of Pennsylvania.

**JURISDICTION AND VENUE**

4. Subject matter jurisdiction is appropriate before this Court under Federal Question Jurisdiction and Supplemental Jurisdiction, 28 U.S.C. §§ 1331,1337, and 1367.

5. Venue is appropriate before this Court under 28 U.S.C. § 1391 (b) as Defendants regularly conduct business within the Eastern District of Pennsylvania and all acts and omissions which are the subject of Plaintiff's Complaint occurred therein.

**FACTUAL AVERMENTS**

6. Plaintiff commenced employment with the Defendants on or about October 2011

7. The Plaintiff was hired as a Registered Nurse.

8. The Plaintiff was not paid hours for overtime and regular pay in 2013, 2014 and 2015.

9. The Plaintiff reported her hours properly for each week of work.

10. Plaintiff was terminated on May 5, 2015.

11. Plaintiff's termination was directly related to her complaining and reporting Defendant's failure to properly pay her regular wages and her overtime wages.

12. Plaintiff was required to clock out for all lunch hours, but was not permitted to take lunch hours.

13. Plaintiff was an hourly employee and was non-exempt as she was a registered

nurse without any management duties.

14. As an hourly employee Plaintiff was entitled to overtime pay and his non-exempt status.

15. Plaintiff recorded and reported his overtime on a regular and timely basis to the proper personnel with the Defendant.

16. Overtime was not paid regardless of the fact that all hours and overtime were reported properly.

**COUNT I**  
**Violation of the FSLA for Unpaid Overtime and Regular Hours**

217. Plaintiff incorporates the preceding paragraphs as if set more fully at length herein.

18. At all times relevant hereto, Defendant engaged in interstate commerce and/or the production of goods for commerce, within the meaning of FLSA, 29 U.S.C. §§ 206(a) and 207(a).

19. At all times relevant, the Defendant employed Plaintiff within the meaning of the FLSA.

20. The FLSA requires covered employers to compensate covered employees for every hour worked in a workweek. See 29 U.S.C. § 206(b).

21. The FLSA requires covered employers to pay covered employees overtime compensation at a rate "not less than one and one-half times" the employee's regular rate of pay for all hours worked over 40 in a workweek. See 29 U.S.C. § 207(a)(1).

22. Throughout the relevant period, Plaintiff and other employees who were similarly

situated were non-exempt covered employees entitled to the protections of the FLSA.

23. Throughout the relevant period, the Defendant were covered employers, subject to the provisions of the FLSA, and were not exempt from providing FLSA overtime benefits for any reason.

24. The Defendant has a policy and practice of refusing to pay overtime compensation to Plaintiff and failure to pay overtime compensation at a rate not less than one and one-half times the rate at which they are employed for work performed beyond the 40 hours workweek, is a violation of the Fair Labor Standards Act of 1938, in particular 29 U.S.C. §§ 206, 207.

25. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a) because the Defendant violated Plaintiff's rights as an employee even after Plaintiff brought this to their attention on multiple occasions.

26. Due to the Defendant's FLSA violations, Plaintiff is entitled to recover from Defendant their unpaid overtime compensation, an additional amount equal to liquidated damages, additional liquidated damages for unreasonably delayed payment of wages, reasonable attorneys' fees and costs of this action, pursuant to 29 U.S.C. § 216(b).

27. Plaintiff was retaliated against and terminated for demanding payment of the overtime hours that she worked, reported and was entitled to be paid for.

WHEREFORE, Plaintiff demands judgment against the Defendant and respectfully requests the following relief:

- a. Damages, including but not limited to interest, liquidated damages, and counsel fees in the amounts due Plaintiff, and others similarly situated, for overtime compensation;
- b. Equitable relief in the form of an order directing the Defendant to comply with the

Fair Labor Standards Act and Pennsylvania Wage Payment and Collection Law;  
and  
c. Such other and further relief as this Court deems proper.

**COUNT II**

**Violation of The Pennsylvania Wage Payment and Collection Law,  
Act of 1961, P.L. 637, No. 329**

28. Plaintiff incorporates the preceding paragraphs as if set forth more fully at length herein.
29. At all times relevant, the Defendant employed Plaintiff for work weeks of forty (40) hours to which Plaintiff performed said duties in a timely manner to the best of his abilities.
30. At all times relevant, Plaintiff was an employee of the Defendant and entitled to pay on a regular basis.
31. Defendants had knowledge of the hours that Plaintiff worked during his tenure.
32. Defendants deprived the Plaintiff of pay for the hours worked as enumerated *supra*.
33. Defendants have violated the Pennsylvania Wage Payment and Collection Law, Act of 1961, P.L. 637, No. 329 by failing to make timely payments in the form of a proper pay check for the hours properly worked by the Plaintiff on the payday as required.
34. The Defendant set the pay days for the Plaintiff at the time of hiring.
35. None of the wages claimed are considered fringe benefits, but rather hourly wages due and owed.

WHEREFORE, Plaintiff demands judgment against the Defendant and respectfully

requests the following relief:

- a. Lost wages, as well as compensatory and back pay damages to the fullest extent permitted under state law;
- b. Litigation costs, expenses, and attorney's fees to the fullest extent permitted under state law;
- c. Civil penalties as provided under the law;
- d. Treble damages as provided under the law;
- e. Interest for monies not paid; and
- f. Such other and further relief as this Court deems just and proper.

**COUNT III**

**Retaliation in Violation of the Fair Labor Standards Act, 29 U.S.C § 201 et seq**

36. Plaintiff incorporates the preceding paragraphs as if set forth more fully at length herein.

37. At all times relevant, Defendants employed Plaintiff and persons similarly situated, for work weeks in excess of forty (40) hours.

38. At all times relevant, Plaintiff and the other similarly situated persons were not exempt from the Fair Labor Standards Act of 1938 (FLSA) and were therefore entitled to payment for time and a half for hours worked in excess of forty (40) in a work week.

39. During Plaintiff's employment, he became aware that the Defendant was not paying overtime hours, and when they were they were, were not paying the correct amount.

40. The Defendant - by and through its officers, employees, and agents - knew or had reason to know that this conduct was taking place.

41. Plaintiff was terminated for addressing the issues of non-payment with his

Supervisors.

42. The retaliatory acts by Defendant, which included terminating Plaintiff's employment, were not in compliance with anti-retaliation provisions and standards of the FLSA.

WHEREFORE, Plaintiff demands judgment against the Defendant and respectfully requests the following relief:

- a. Lost wages, as well as compensatory and back pay damages to the fullest extent permitted under state law;
- b. Litigation costs, expenses, and attorney's fees to the fullest extent permitted under state law; and
- c. Such other and further relief as this Court deems just and proper.

**COUNT IV**  
**Violation of Pennsylvania Common Law**

43. Plaintiff hereby incorporates by reference all of the aforementioned paragraphs as if fully set forth at length herein.

44. Plaintiff was wrongfully terminated pursuant to the Common Law of Pennsylvania and protected under Shick v. Shirey, 716 A.2d 1231 (Pa. 1998) as enumerated *supra*.

45. The conduct of Defendants' treatment of Plaintiff in his employment, termination and retaliation violated the Pennsylvania Common Law.

46. Plaintiff was terminated in part because of his work accident, reporting said work accident and sustaining injuries in said work accident.

WHEREFORE, Plaintiff, seeks a determination that Defendants violated the Pennsylvania Common Law including but not limited to: back pay and front pay; equitable relief; injunctive relief included but not limited to barring future discriminatory conduct; attorney's fees, expert fees, costs and expenses; and such further relief as this Court deems just and fair.

**Respectfully submitted,**

**SAFFREN & WEINBERG**

BY: \_\_\_\_\_  
MARC A. WEINBERG, ESQUIRE  
815 Greenwood Avenue, Suite 22  
Jenkintown, PA 19046  
(215) 576-0100

**Dated: May 2, 2018**